

## Zoning Review –midtown Building 2

### Sec. 14-298. Dimensional requirements.

In addition to the provisions of article III, division 25 of this code, lots in the B-7 mixed use urban district zone shall meet the following requirements:

- (a) *Minimum lot size:* None. **Lot 6 = 45360 sf - Meets Zoning**
- (b) *Minimum frontage:* None. **324 – meets zoning**
- (c) *Yard dimensions:*
  - 1. Minimum yards in the B-7 zone:
    - Front setback:* **None required except as provided in 2 below. 0 along Somerset– Meets zoning**
    - Side setback:* None required. **30 feet between Midtown One and Midtown Two – Meets Zoning**
    - Rear setback:* None required. **4 feet from trail property line. Meets Zoning**
  - 2. Maximum street setback: Parking structures, public transportation facilities, utility substations, secondary building components such as truck loading docks, mechanical equipment enclosures and refrigeration units are not subject to the maximum setbacks contained herein. The following maximum street setbacks shall otherwise apply in the B-7 zone:
    - a. Ten (10) feet. The setback can be increased more than ten (10) feet if all of the conditions below are met: **0 feet along Somerset. Meets zoning. 0 to 19 feet along Chestnut. (see B below)**
      - i. Seventy-five (75) percent of the total building wall length of an individual building facing the abutting streets is setback no greater than ten (10) feet; and **(NA)**
      - ii. The increased setback area shall include a functional and accessible public pedestrian entrance into the building that faces the street unless a public pedestrian entrance already exists along the same street; and **(NA)**
      - iii. The increased setback is not used for surface parking. **(NA)**
    - b. For a corner lot having frontage on two (2) streets, the maximum setback shall apply to both streets. In the case of a lot having frontage on two or more street corners, newly constructed buildings shall be

sited at street corners and meet the maximum setback requirement prior to other free-standing buildings being constructed on the lot which shall also meet the maximum street setback. In the case of a corner lot having frontage on a third street (but not a corner) the maximum setback need not apply to the third street. **0 feet along Somerset and 0-19 feet along Chestnut. See g below**

- c. In the case of a lot having frontage on two (2) streets but not on a corner, the maximum setback shall apply to all streets but in the case of a lot having frontage on three (3) streets but not on a corner, the maximum setback shall apply to only two streets. For purposes of this subsection, only, the first building on a lot shall meet the maximum setback on at least one street with future buildings required to meet the maximum setback on the remaining street(s). **(NA)**
- d. In the case of a lot in which a minimum seventy-five (75) percent of the total lot frontage has a building within ten (10) feet of the street, other buildings may be located on the lot more than ten feet from the street. In the case of a lot having frontage on Marginal Way and I-295, the property edge along I-295 shall not be considered street frontage.
- e. The maximum building setback shall not apply to vertical building expansions in the following cases: **(NA)**
  - i. The upper floors of a building in which the lower floors meet the maximum setback and the minimum height requirement.
  - ii. The building existed as of March 9, 2005 and meets the minimum height requirement.
  - iii. A building not meeting the maximum street setback and the minimum height requirement may vertically expand a total of one floor from March 9, 2005.
  - iv. In the case of a building in which at least fifty (50%) of the building wall(s) abutting street(s) is within 20 feet of the street.
  - v. Additions to parking garages existing as of March 9, 2005.
- f. Additions to buildings existing as of March 9, 2005 that re nonconforming as to the maximum setback need not conform to the maximum street setback provided the cumulative building footprint since March 9, 2005 does not exceed fifty percent (50%) of the existing building footprint. Such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of March 9, 2005 and to vertical expansions as provided for in Sec. 14-298(c)(2)(e). **(NA)**

- g. Lots having frontage on streets in which the curve of the street frontage precludes a rectangular shaped building along the street line, for purposes of calculating the setback, the average setback of the building from the street line may be used, but in no event shall the average setback along the length of the building edge exceed an average setback of fifteen (15) feet nor shall the maximum setback exceed twenty (20) feet. The increased setback shall not be used for surface parking, vehicular loading or vehicular circulation. **Chestnut Street curves. The maximum setback is 0 to 19.27 feet. Average is less than 15 feet. Meets zoning.**
  - h. Additions to and relocations of designated historic structures or structures determined to be eligible by the historic preservation committee shall be exempt from the maximum setback requirement. **(NA)**
- (d) Minimum length of building wall required to be located long street frontage of lot except that additions to and relocations of designated historic structures or structures determined to be eligible by the historic preservation committee shall be exempt from this subsection. **324 feet along Somerset with 30 ft passage. More than 75% of street frontage. Meets Zoning.**
- 1. Minimum seventy-five percent (75%) of lot street frontage within ten (10) feet of the street; or
  - 2. Minimum twenty-five percent (25%) of building perimeter within ten (10) feet of the street.
- (e) Maximum building lot coverage: One-hundred percent (100%). **\$ foot setback on rear and variable setback along Chestnut. The mews is 30 feet. Thus, less than 100% coverage. Meets zoning**
- (f) *Maximum residential density:* None **No residential units in Building Two. Meets zoning**
- (g) Maximum building height: As detailed on the [bayside height overlay map](#) on file in the planning and development department office. **The lot is in Height Overlay Zone A and Zone B, which have maximum heights of 125 and 105 respectively. The average grades as provided by Patrick Venne are as follows:**  
***Civil sheet C-3.0 shows the building's BFE at 12'. There is no meaningful step down (or up) from the building to the grade at any corner.***  
  
***The following sheets confirm this (to within a negligible measurement).***  
  
***Civil sheet C-3.50 shows the two westerly corners of the Garage along Chestnut both at 11.98.***

***Civil sheet C-3.3 shows the bottom right corner spot grade at 11.98***

***Civil sheet C-3.16 shows the top right corner at 11.98***

***Therefore the average grade based on the corner calcs is 11.98'***

**The figures were confirmed on the plans. The proposed garage is shown at 90 feet with light fixtures and the stairwell appurtenance above the 90 feet. The building is below the maximum building heights of Overlay Zone A and B. Meets zoning.**

- (h) Minimum building height: Newly constructed buildings shall have the required minimum of floors as provided by the bayside height overlay map within fifty (50) feet of any street frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.

**Minimum number of floors is 4 in Height Overlay Zone A and 3 floors in Height Overlay Zone B. The proposed building is first floor mercantile with a 7 floor garage above. The minimum building heights are met.**

This minimum floor provision shall not apply to:

1. Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.
2. Information kiosks and ticketing booths.
3. Parking garages.
4. Public transportation facilities.
5. Additions to buildings existing as of (March 9, 2005) provided that the cumulative additions since (March 9, 2005) does not exceed fifty percent (50%) of the ground floor building footprint on (March 9, 2005) except that such restriction shall not apply to those portions of the building addition(s) that are constructed closer to the street line than the building footprint existing as of (March 9, 2005).
6. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.
7. Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.
8. Portions of buildings more than fifty (50) feet from the street line.

(Ord No. 201-05/06, 4-19-06; Ord. No. 240-10/11, 6-6-11)

## Building Elevations – Design Review under the B-7 Design Guidelines

The Building 2 Exterior Elevations, Sheets A-3.1 and A-3.2 prepared by THA Architects, LLC with an issued date of Feb 8, 2016 and a revision date of March 14, 2018, meet the design standard with the Planning Board's condition of approval, which is noted on each sheet, and is stated below:

**Standard E-12: Materials: Final storefront design shall be subject to approval of the Planning Authority and, as the rest of the ground level, be completed in materials on the "predominant materials" list in Standard E-12.**

**Please note to Permitting and Inspections: Any revisions to the exterior storefront design must be reviewed by the Planning Authority.**

### Sec. 14-299. Performance standards.

All uses in the B-7 mixed development district zone shall comply with the following standards. Standards 14-299(a),(f),(j),(m),(n) and (o) below shall be reviewed by the Planning Authority.

- (a) Storage: Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least six feet in height. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior areas shall be cleaned and sanitized on a regular basis. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area. All dumpsters shall be screened on all four (4) sides by a minimum six (6) foot high solid fence or shall otherwise be fully enclosed as approved by the planning board or the planning and urban development department. **Internal trash rooms. Meets standard.**
- (b) Noise: **All exterior mechanical systems, including but not limited to HVAC, shall obtain the required building permits from the Department of Permitting and Inspections and shall meet the zoning noise standards.**
  1. Definitions:
    - a. Tonal sounds are defined as sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.
    - b. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with duration of less than one (1) second.
  2. Measurement: Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body.

Measurements shall be made at all major lot lines of the site, at a height of at least four (4) feet above the ground surface. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).

3. Maximum permissible sound levels: The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:
  - a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
  - b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

In addition to the sound level standards established above, all uses located within this zone shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sound cannot be prevented, to minimize the impact of such sounds in residential zones.

4. *Exemptions:*
  - a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
  - b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
    - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
    - ii. Traffic noise on public roads or noise created by airplanes and railroads.
    - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.

- iv. Emergency construction or repair work by public utilities , at any hour.
  - v. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, and fireworks displays.
- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.
- (d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this code are more stringent.
- (e) Storage of vehicles: Outdoor storage of any unregistered automotive vehicles on the premises for more than ten (10) days, and outdoor storage of any used automotive tires on the premises shall not be permitted. **Structured Parking Garage -Meets Standard**
- (f) Off-street parking and loading: Off-street parking is required as provided in division 20 (off-street parking) of this article. Division 21 (off-street loading) of this article shall not apply. Surface parking shall meet the following standards: **Parking Garage, not surface parking. Meets standard**
1. None of the spaces shall occupy all or a portion of a sidewalk within a street right-of-way.
  2. Driveway entrances shall meet the City of Portland Technical Manual standards.
  3. The parking area shall meet the landscape and buffer standards of the City of Portland Technical and Design Manuals.
- (g) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5 **Site is not in the shoreland zone. Ann Machado, Zoning Administrator, states Panel 13 Effective date July 17, 1986, the property is in Zone C - Areas of minimal flooding. She noted, "The GIS overlay for the proposed 2017 flood maps puts the property in the shaded area for a 500 year flood but this is not been adopted and it would not require any special flood zone permits."**
- (h) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.

- (i) Enclosure of uses: All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.
- (j) Materials or wastes: Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. Any areas used for permitted outdoor storage of materials shall be screened from view of any adjoining properties and public rights-of-way. NO outdoor storage shall be permitted between the front of any building on the site and the street.
- (k) Odor: Uses in the B-7 zone shall adhere to the odor regulations of the IL zone.
- (l) Smoke: Discharges of smoke shall not exceed opacity percentage of forty percent (40%) or number two (2) on the ringelman chart.
- (m) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or surface drain, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or the harbor, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority. **Department of Public Works has approved the proposed connections into the City sewer system. Meets standard.**
- (n) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties and as otherwise governed by the site lighting standards of the City of Portland Technical Manual. The applicant shall install the exterior lighting as approved as part of the site plan review. Meets standard.
- (o) Building entrances: All buildings shall have a minimum of one (1) public pedestrian entrance facing the street frontage of the lot. Such building entrances shall also be reviewed under the B-7 bayside design standards. **Meets Standard.**